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9 Attorneys for Defendants

SAMSUNG ELECTRONICS AMERICA, INC. and

10 SAMSUNG TELECOMMUNICATIONS AMERICA, LLC

11 **UNITED STATES DISTRICT COURT**  
12 **NORTHERN DISTRICT OF CALIFORNIA**  
13 **SAN JOSE DIVISION**

13 ERIC THOMAS, a Texas resident; and )  
14 BENJAMIN LANCASTER, a Pennsylvania )  
resident, on behalf of themselves and all others )  
15 similarly situated, )

16 Plaintiffs, )

17 vs. )

18 CARRIER IQ, INC. a Delaware corporation; )  
19 SAMSUNG ELECTRONICS CO., LTD., a )  
Korean company; SAMSUNG ELECTRONICS )  
20 AMERICA, INC., a New York corporation; and )  
SAMSUNG TELECOMMUNICATIONS )  
21 AMERICA, INC., a Delaware corporation, )

22 Defendants. )

**CASE NO. 5:11-CV-05819-LHK**

**STIPULATION RE CONTINUANCE OF**  
**TIME FOR DEFENDANTS TO**  
**RESPOND TO COMPLAINT AND**  
**~~[PROPOSED]~~ ORDER EXTENDING**  
**TIME TO RESPOND TO COMPLAINT**

1 WHEREAS the above-referenced plaintiffs filed the above-captioned case;

2 WHEREAS the above-referenced plaintiffs allege violations of the Federal Wiretap  
3 Act and other laws by the defendants in this case;

4 WHEREAS, there have been no other modifications to the time to answer, move or  
5 otherwise respond to the complaint in this action with respect to claims asserted against defendants  
6 Samsung Electronics America, Inc. and Samsung Telecommunications America, LLC<sup>1</sup>. (the  
7 “Samsung Defendants”);

8 WHEREAS, pursuant to an ADR Scheduling Order dated December 2, 2011, the  
9 Initial Case Management Conference in the above-captioned action is scheduled for February 28,  
10 2012;

11 WHEREAS, over 50 other complaints have been filed to-date in federal district  
12 courts throughout the United States by plaintiffs purporting to bring class actions on behalf of  
13 cellular telephone and other device users on whose devices software made by defendant Carrier IQ,  
14 Inc. is or has been embedded (collectively, including the above-captioned matter, the “CIQ cases”);

15 WHEREAS, a motion is pending before the Judicial Panel on Multidistrict  
16 Litigation to transfer the CIQ cases to this jurisdiction for coordinated and consolidated pretrial  
17 proceedings pursuant to 28 U.S.C. Sec. 1407, and responses to the motion supporting coordination  
18 or consolidation have been filed;

19 WHEREAS plaintiffs anticipate the possibility of one or more consolidated  
20 amended complaints in the CIQ cases;

21 WHEREAS plaintiffs and the Samsung Defendants have agreed that an orderly  
22 schedule for any response to the pleadings in the CIQ cases would be more efficient for the parties  
23 and for the Court;

24 WHEREAS plaintiffs agree that the deadline for the Samsung Defendants to  
25 answer, move, or otherwise respond to their complaint shall be extended until the earliest of the  
26

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27 <sup>1</sup> Samsung Telecommunications America, LLC was erroneously sued as Samsung  
28 Telecommunications America, Inc.

1 following dates: (1) forty-five days after the filing of a consolidated amended complaint in the CIQ  
 2 cases; or (2) forty-five days after plaintiffs provide written notice to defendants that plaintiffs do  
 3 not intend to file a consolidated amended complaint; or (3) as otherwise ordered by this Court or  
 4 the MDL transferee court; provided, however, that in the event that any of the Samsung Defendants  
 5 should agree to an earlier response date in any of these cases, that Samsung Defendant will respond  
 6 to the complaint in the above-captioned action on that earlier date;

7 WHEREAS plaintiffs further agree that this extension is available, without further  
 8 stipulation with counsel for plaintiffs, to all named defendants who notify plaintiffs in writing of  
 9 their intention to join this Stipulation;

10 WHEREAS this Stipulation does not constitute a waiver by the Samsung  
 11 Defendants of any defense, including but not limited to the defenses of lack of personal  
 12 jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or service of  
 13 process;

14 WHEREAS, with respect to any defendant joining the Stipulation, this Stipulation  
 15 does not constitute a waiver of any defense, including but not limited to the defenses of lack of  
 16 personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or service  
 17 of process; and

18 WHEREAS, plaintiffs and the Samsung Defendants, as well as any defendant  
 19 joining this Stipulation, agree that preservation of evidence in the CIQ cases is vital, that  
 20 defendants have received litigation hold letters, that they are complying with and will continue to  
 21 comply with all of their evidence preservation obligations under governing law, and that the delay  
 22 brought about by this Stipulation should not result in the loss of any evidence.

23 Now, therefore, pursuant to Civil Local Rule 7-12, plaintiffs in the above-referenced  
 24 case and the Samsung Defendants, by and through their respective counsel of record, hereby  
 25 stipulate as follows:

26 1. The deadline for the Samsung Defendants to answer, move, or otherwise  
 27 respond to plaintiffs' complaint shall be extended until the earliest of the following dates: forty-five  
 28 days after the filing of a consolidated amended complaint in these cases; or forty-five days after

plaintiffs provide written notice to the Samsung Defendants that plaintiffs do not intend to file a Consolidated Amended Complaint; or as otherwise ordered by this Court or the MDL transferee court; provided, however, that in the event that any of the Samsung Defendants should agree to an earlier response date in any of these cases, except by court order, that Samsung Defendant will respond to the complaint in the above-captioned case on that earlier date.

2. This extension is available, without further stipulation with counsel for plaintiffs, to all named defendants who notify plaintiffs in writing of their intention to join this Stipulation.

3. This Stipulation does not constitute a waiver by the Samsung Defendants or any other named defendant joining the Stipulation of any defense, including but not limited to the defenses of lack of personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or service of process.

4. As a condition of entry into this Stipulation, the Samsung Defendants and any other defendant(s) joining this Stipulation, and the plaintiffs, agree that they are complying with and will continue to comply with all evidentiary preservation obligations under governing law.

IT IS SO STIPULATED.

DATED: January 11, 2012

HAGENS BERMAN SOBOL SHAPIRO LLP

By: /s/ Thomas E. Loeser

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Attorneys for Defendants

SAMSUNG ELECTRONICS AMERICA, INC. and  
SAMSUNG TELECOMMUNICATIONS AMERICA,  
LLC

**CERTIFICATION**

I, Lance A. Etcheverry, am the ECF User whose identification and password are being used to file this **STIPULATION RE CONTINUANCE OF TIME FOR DEFENDANTS TO RESPOND TO COMPLAINT AND [PROPOSED] ORDER EXTENDING TIME TO RESPOND TO COMPLAINT**. In compliance with General Order 45.X.B, I hereby attest that Thomas E. Loeser has concurred in this filing.

DATED: January 11, 2012

SKADDEN, ARPS, SLATE, MEAGHER & FLOM LLP

By: /s/ Lance A. Etcheverry

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Attorneys for Defendants  
SAMSUNG ELECTRONICS AMERICA, INC. and  
SAMSUNG TELECOMMUNICATIONS AMERICA,  
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: January 18, 2012

By: \_\_\_\_\_



Hon. Lucy H. Koh

UNITED STATES DISTRICT JUDGE